

Special Exception for Telecommunication Towers within the General Commercial (C-2) District

TOWN OF MERRIMACK ZONING BOARD OF ADJUSTMENT

Application for a Special Exception (RSA 674:33)

DATE SUBMITTED: _____

Case #: _____

Tax Map _____/Lot _____

Zoning District(s): C-2

Address of Subject Property: _____

Name of Applicant: _____

Telephone: _____

Address: _____

e-mail: _____

Is Applicant the property owner? ____ Yes ____ No

If no, identify Owner

Name: _____

Telephone: _____

Address: _____

e-mail: _____

Owner's Signature (or attach Letter of Authorization): _____

All Special Exception Requests:

Brief description of proposed use showing justification for a Special Exception as specified in the Zoning Ordinance, Section(s) 2.02.3 (C) (2).

Please attach additional sheets, plans, etc. if needed to support request for Special Exception.

I/We do authorize the Town of Merrimack Zoning Board of Adjustment and staff to enter upon the above referenced property for inspection.

Name of Applicant (*Please Print*)

Name of Property Owner, if Different
from Applicant (*Please Print*)

Signature of Applicant

Signature of Property Owner, if
Different from Applicant

Special Exception for Telecommunication Towers within the General Commercial (C-2) District.

For requests for a **Special Exception** to allow for Telecommunication Towers within the General Commercial (C-2) District where it can be shown that the following criteria are satisfied according to Section 2.02.3 (C) (2) of the Zoning Ordinance:

1. The applicant shall meet the approval criteria set forth in a-d of Section 2.02.3 (C):

- a) The specific site is an appropriate location for such a use or uses in terms of overall community development because:

- b) The use as developed will not adversely affect the neighborhood because:

- c) There will be no nuisance or serious hazard to vehicles or pedestrians because:

- d) That adequate and appropriate facilities will be provided for the proper operation of the proposed use or uses because:

2. The applicant meets the criteria set forth in Section 2.02.3 (C) (2) (B) of the Zoning Ordinance:

- a) Towers shall be set back from the property line by a distance equal to the height of the tower. The Planning Board may permit a lesser setback where alternative protections to abutting properties are provided by way of easement, covenant or other adequate deed restriction or where the proposed tower is designed in full compliance with all applicable building codes and building/construction plans submitted to the building inspector are certified and stamped by a licensed structural engineer prior to the issuance of a building permit. Prior to the issuance of a Building Permit, the tower design and plans shall be reviewed by a structural engineer designated by the Town. This criterion is addressed by:

- b) Accessory facilities must satisfy the minimum zoning district setback requirements.

- c) Towers shall maintain a neutral, non-reflective color so as to reduce visual obtrusiveness.

- d) For security purposes, towers and ancillary facilities shall be enclosed by a minimum six (6) foot fence.

- e) All utility buildings and structures accessory to a tower shall be screened from view by suitable vegetation from any adjacent residentially zoned property or public roads.

- f) Any proposed communications tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least three (3) additional users if the tower is over 100 feet in height or for at least one (1) additional user if the tower is less than 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

- g) Twice yearly inspections and bonding required: a) the structural integrity of all towers, whether in use, abandoned or unused, shall be inspected at least twice a year; b) copies of inspection reports shall be filed with the Community Development Department within thirty (30) days of the inspection; c) all owners of commercial wireless telecommunication towers shall obtain and maintain a bond to cover the cost of removal of abandoned, unused towers or portions of towers; d) the amount of said bond shall be reviewed by the Town every five (5) years to ensure the amount of security is adequate and may be increased if necessary; e) failure to file the required biannual inspection report with the Community Development Department within the specified time-frame shall constitute sufficient grounds to cause the bond to be called.

- h) Permit Required: a) building permits shall be obtained for all towers, accessory structures and antennae; b) the number of users and the total number of antennae on any individual tower shall not exceed that which is permitted under the site plan approved by the Merrimack Planning Board.

3. Written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna if the applicant is proposing to build a new tower. This evidence can consist of an analysis of the location, height, strength, and potential interference which would make co-location impractical.

ABUTTER NOTIFICATION

Please be advised that, per RSA 676:7 (I), the Zoning Board of Adjustment is required to notify the following parties by certified mail - mailed at least five (5) days prior to the date of the meeting at which an item is to be discussed:

- 1) Applicant;
- 2) Abutters*;
- 3) Holders of conservation, preservation, or agricultural preservation restrictions;
- 4) Every engineer, architect, land surveyor or soil scientist whose professional seal appears on the plan (if applicable).

***Abutters are required to be "as indicated in the town assessing records not more than 5 days before the day of filing", per RSA 676:4 (I)(b) (Please complete the certification below).**

Definition of "Abutter" (RSA 672:3): Any person whose property is located in New Hampshire and **adjoins** or is **directly across the street or stream** from the land under consideration by the local land use board. In the case of an abutting property being under a **condominium** or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. In the case of an abutting property being under a **manufactured housing park** form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

In order for us to properly comply with the statutory requirements for Zoning Board of Adjustment notices, the Applicant needs to provide us with information for all of the above-mentioned parties, and provide payment for us to cover the costs of notice. Failure to do so will constitute sufficient reason for the application to be denied as "Incomplete".

A sample format for compiling/submitting this information is on the reverse.

ABUTTERS TO BE NOTIFIED

Please sign and submit the following certification:

I hereby certify that the attached abutter information is as indicated in the Town of Merrimack Assessor's records as of _____, 20____.
(date)

(Signature)

(Print name)

Please Utilize Below Format for Compiling/Submitting Abutter Information

Abutter 1
Abutter 1 Address
City State Zip

Abutter 2
Abutter 2 Address
City State Zip

Etc.

OTHER PARTIES TO NOTIFY *(include all that apply)*

Applicant
Applicant's Address
City State Zip

Owner (if different from Applicant)
Owner's Address
City State Zip

Engineer
Engineer's Address
City State Zip

Architect
Architect's Address
City State Zip

Land Surveyor
Land Surveyor's Address
City State Zip

Soil Scientist
Soil Scientist's Address
City State Zip

Also list, individually, any holders of any conservation, preservation, or agricultural preservation restrictions that apply to the subject property

IMPORTANT: Attach two (2) sets of mailing labels for all parties identified above.

CHECKLIST REQUIREMENTS

All requests for a Special Exception shall be accompanied by a properly completed, dated and signed Application for a Special Exception, which shall contain the following:

| | | <u>Applicant</u> (√) | <u>CDD</u> (√) |
|----|---|-------------------------|-------------------|
| 1. | Tax Map_____/Lot_____ | _____ | _____ |
| 2. | Name and address of applicant. | _____ | _____ |
| 3. | Name and address of property owner (if different). | _____ | _____ |
| 4. | For uses other than an ADU, attach additional sheets, maps, plans, etc. as needed to support request for special exception. | _____ | _____ |
| 5. | For a proposed ADU, per Section 2.02.1(B)(2), a completed building permit application including a scaled floor plan with dimensions of ADU and the level of the home where the apartment is to be located must be submitted with the application. All ingress/egress locations (existing and proposed) must be shown on the plan. | _____ | _____ |
| 6. | A list, and two (2) sets of address labels, with the names & legal addresses of applicant, property owner, and all property owners abutting the subject parcel, including those directly across the street or stream. | _____ | _____ |
| 7. | Certification by applicant that the abutters are as indicated in the Town of Merrimack Assessor's records, not more than 5 days prior to day of filing. | _____ | _____ |
| 8. | Signed authorization for the Zoning Board and staff to enter upon the subject property for inspection. | _____ | _____ |
| 9. | Application fee(s) and abutter notification fee. | _____ | _____ |

Revised: 9/29/2010